

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

STRATEGIC DELIVERY
SOLUTIONS, LLC,

Plaintiff,

v.

STALLION EXPRESS, LLC, *et al.*,

Defendants.

In the Matter of the Enforcement
of a Subpoena Issued to

Vicki M. Felix.

Civil Action No.
5:19-MC-0012 (GTS/DEP)

Underlying Litigation
Civil Action No.:
2:18-CV-08779 (D.N.J.)

APPEARANCES:

OF COUNSEL:

FOR PLAINTIFF:

OLENDER FELDMAN LLP
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Summit, New Jersey 07901

LAUREN PAXTON, ESQ.
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FOR DEFENDANTS:

BOND, SCHOENECK & KING, PLLC
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KEVIN M. CAPUZZI, ESQ.

FOR NON-PARTY WITNESS:

VICKI M. FELIX, *Pro Se*
104 Maple Manor Drive
North Syracuse, NY
DAVID E. PEEBLES
CHIEF U.S. MAGISTRATE JUDGE

ORDER

The underlying action, which is currently pending in the District of New Jersey, arises from allegations that defendant Stallion Express, LLC misappropriated the proprietary and confidential business information and trade secrets of plaintiff Strategic Delivery Solutions, LLC to unfairly compete. In connection with that matter, and currently pending before this court, is an unopposed motion by defendants to compel Vicki M. Felix, a non-party and former employee of both Strategic Delivery Solutions and Stallion Express to appear for deposition and to produce certain documents in connection with this action.

As part of the discovery process, defendants scheduled Ms. Felix's deposition for March 20, 2019 in the Western District of New York. See Dkt. No. 1-2 at 51-58. Although Ms. Felix received notice of the deposition, she indicated to defendants' counsel that she was unable to appear at the time and place noticed. Dkt. No. 1-2 at 72-74. On April 9, 2019, defendants filed the present motion, which was not opposed by plaintiff or

Ms. Felix. Dkt. No. 5. Oral argument was heard concerning the motion on April 22, 2019, at which time Ms. Felix appeared and indicated her intention to comply with the subpoena, subject to her work constraints.

Based upon the foregoing, and defendants' written and oral submissions, it is hereby ORDERED, as follows:

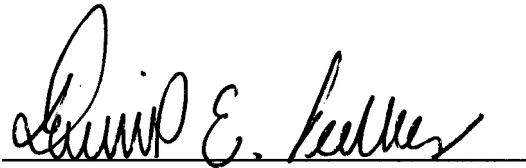
(1) Defendants' motion to compel (Dkt. No. 1) is GRANTED.

(2) Non-party witness Vicki M. Felix shall appear for a deposition not later than thirty (30) days from the date of this order, at a mutually agreeable time and place, and shall produce all documents within her possession, custody, or control referenced in Exhibit A to the subpoena issued to Ms. Felix. **Ms. Felix is cautioned that her failure to comply with this order may subject her to sanctions pursuant to Rule 45(g) of the Federal Rules of Civil Procedure, including a directive by this court that she pay defendants' reasonable expenses, including attorney's fees, caused by her failure to comply with the subpoena and orders of this court, and a recommendation that Ms. Felix be found in contempt and subject to arrest.**

(3) Defendants' counsel shall serve a copy of the deposition and document subpoena upon non-party witness Vicki M. in manner prescribed under Rule 4 of the Federal Rules of Civil Procedure no later

than Monday, April 29, 2019.

(4) The clerk of the court respectfully directed to forward copies of this order electronically to attorneys for the parties in the action, as well as one copy to Vicki M. Felix at 104 Maple Manor Drive, North Syracuse, New York 13212 by regular mail.

A handwritten signature in black ink, appearing to read "David E. Peebles", written over a horizontal line.

David E. Peebles
U.S. Magistrate Judge

Dated: April 22, 2019
Syracuse, New York